

NO. 05-21-00360-CV

**IN THE FIFTH COURT OF APPEALS
AT DALLAS, TEXAS**

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LISA MATZ
Clerk

MOLLY L. WILKERSON,

Appellant,

v.

MARK MALDONADO,

Appellee.

On Appeal from the 366th District Court, Collin County, Texas
Hon. Tom Nowak, Presiding
Cause No. 366-51795-2021

APPELLEE'S BRIEF

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STATEMENT OF THE CASE

This is one of three related appeals pending before this Court. Ms. Wilkerson is the appellant in each. This appeal is from the trial court's determination that she is a vexatious litigant. (CR 48) Her appeals in the informal marriage/SAPCR case (appeal no. 05-21-00242-CV) and the protective order case (appeal no. 05-21-00373-CV) involve the filings and proceedings that lead to that determination.

STATEMENT REGARDING ORAL ARGUMENT

Appellee believes oral argument would not aid the Court. The record thoroughly supports the trial court's appropriate exercise of its discretion in determining that Ms. Wilkerson is a vexatious litigant.

STATEMENT REGARDING THE RECORD AND APPELLANT'S BRIEF

The records in the three appeals are plentiful and confusing. Some are sealed. Some are not. The Clerk's Record specific to this vexatious litigant case (trial court cause no. 366-51795-2021) was filed on May 27, 2021. It begins with an Application for Protective Order filed by Ms. Wilkerson on April 5, 2021. (CR 6) It was her fifth filing for a protective order that accused Mr. Maldonado of domestic violence. (CR 25) All prior applications had been denied. The Final Protective Order in place against Ms. Wilkerson is the subject of her appeal no. 05-21-000373-CV. Because the vexatious litigant designation rests on events in

the related cases, some references will be made to the records in the other two appeals.

The only reporter's record shown in the Attorney Portal for this case and on the Court's publicly - available register was filed on November 9, 2021. However, that is only the selected portion of the record that Ms. Wilkerson filed before the Court ordered that the entire record should be filed. The full reporter's record of the vexatious litigant motion hearing is Volume 6 of the reporter's record filed under appeal no. 05-21-00242-CV. The date of the hearing was April 20, 2021.¹ It is confusing because it is designated as a record on a Protective Order, presumably because Ms. Wilkerson's filing of a fifth application for a protective order is the event that triggered Mr. Maldonado's motion to declare her a vexatious litigant. (CR 25)

Appellee believes Ms. Wilkerson's live brief is the one filed on December 17, 2021.² Although it lists all three of the appeal numbers on the front page, the other two related case numbers appear to be crossed out, and the document, which is 64 pages long, exclusively makes arguments regarding the vexatious litigant issue. That is the brief to which Appellee responds.

¹ The full reporter's record from the vexatious litigant hearing was filed March 21, 2022.

² Due to the incompleteness of the record, this brief was not due until April 20, 2022, thirty days after the "completed" record was filed, pursuant to the Court's order of Jan. 31, 2022.

ISSUE PRESENTED

The trial court did not err in declaring Appellant a vexatious litigant.

STATEMENT OF FACTS

A. The Motion

Nine days after Ms. Wilkerson filed her fifth litigation requesting a protective order against him, Mr. Maldonado filed a motion to declare her a vexatious litigant. (CR 6, 25) Mr. Maldonado listed the following filings:

Petitioner's Applications for Protective Order

Date	Cause Number	Nature of Matter
10/27/20	366-56037-2020	Petitioner's lawsuit requesting protective order against Respondent under Texas Family Code
12/15/20	366-56922-2020	Petitioner's lawsuit requesting protective order against Respondent under Texas Family Code
1/14/21	366-50247-2021	Petitioner's lawsuit requesting protective order against Respondent under Texas Family Code
2/5/21	366-50663-2021	Petitioner's lawsuit requesting protective order against Respondent under Texas Family Code
4/5/21	366-51795-2021	Petitioner's lawsuit requesting protective order against Respondent under Texas Family Code

Petitioner's Modification Suits

Date	Cause Number	Nature of Matter
3/29/21	366-50778-2021	Respondent's protective order case: on 3/3/21, the Court granted a protective order against Petitioner. On 3/29/21, Petitioner filed a modification action, re-opening the case.
4/1/21	366-53554-2020	The Underlying Case: on 3/3/21, the Court entered a final order in this suit affecting parent-child relationship. Less than a month later, on 4/1/21, Petitioner filed a modification action, re-opening the case.

(CR 25)

Ms. Wilkerson had filed numerous other proceedings in the trial court, as she has in this Court.³ The filings began on June 30, 2020, when she filed Cause No. 366-53554-2020, a divorce suit (alleging informal marriage) and suit affecting parent-child relationship. (CR 26) She was represented by counsel initially, but she became *pro se* on October 20, 2020, when counsel withdrew. (CR 26) Prior to the three appeals, the informal marriage was rejected (CR 948-50 in no. 05-21-00242-CV), a protective order against Ms. Wilkerson was entered (CR 30-37 in no. 05-21-00373-CV),⁴ and an order in the suit affecting the parent-child relationship was signed. (Sealed CR 1247-86 in no. 05-21-00242-CV).

In her fifth application for a protective order, Ms. Wilkerson alleged Mr. Maldonado committed family violence against her at a restaurant on Feb.11, 2021, but in reality, Ms. Wilkerson, not Mr. Maldonado, was arrested at the restaurant that day and eventually convicted of felony assault family violence. (CR 6-13)⁵ To show Ms. Wilkerson's repeated attempts to obtain a protective order against him had no merit, Mr. Maldonado attached to the motion for vexatious litigant

³ See nos. 05-21-00242-CV, 05-21-00373-CV, 05-21- 00439-CV, 05-21- 00440-CV, and 05-21-00441-CV (last three are mandamus petitions, currently abated).

⁴ That Clerk's Record does not appear to be sealed, so Appellee has redacted the children's names and other sensitive information in the copy of the Final Protective Order attached as Appendix B.

⁵ Ms. Wilkerson's arguments rest upon her allegations and accusations of Mr. Maldonado's conduct, none of which have citations to the record. (Appellant's Brief at 21-23) There is no evidence of such conduct in the record.

designation copies of criminal records regarding the February 11, 2021 arrest.⁶ (CR 35-40) Although Ms. Wilkerson has filed numerous applications for protective order alleging family violence against Mr. Maldonado, it is Ms. Wilkerson who was ultimately convicted of a felony for her family violence against him in front of the parties' children.⁷

B. The Hearing

The trial court held a hearing on the vexatious litigant motion on April 20, 2021. (6 RR 1-61) In the prior hearings that lead to the Final Protective Order issued on March 3, 2021, the judge had heard evidence, including but not limited to, Ms. Wilkerson's testing positive for methamphetamine, amphetamine, and benzodiazepines (7 RR 598, in no. 05-21-00242-CV); her withholding the children from Mr. Maldonado more than once during his periods of possession (for which she was held in contempt) (7 RR 1521-26 in no. 05-21-00242-CV); her telling the children "I'm going to f***** kill your daddy" (7 RR 1544 in no. 05-21-00242-CV); her trying to intercept the children in the school parking lot after the court suspended her possession (7 RR 687 in no. 05-21-00242-CV); her being found "Reason to Believe" by Child Protective Services for neglectful supervision (7 RR 689 in no. 05-21-00242-CV); and her being arresting for felony assault against Mr.

⁶ Ms. Wilkerson's arguments rest upon her allegations and accusations of Mr. Maldonado's conduct, none of which have citations to the record. (Appellant's Brief at 21-23)

⁷ The prosecutions and results are a matter of public record. See Cause no. F21-45223; *The State of Texas v. Molly Wilkerson* in Criminal Distr. Ct. No. 3 of Dallas County, Texas.

Maldonado in front of the children at a local restaurant (7 RR 691 in no. 05-21-00242-CV), before it concluded that a protective order was necessary.⁸

The trial court had previously ordered Ms. Wilkerson to perform certain acts before she could have possession of her children. Ms. Wilkerson was ordered to do the following:

- 1). Schedule and pay for supervised possession through a supervision agency;
- 2). Submit to random urinalysis drug tests twice monthly for 6 months, to begin by a specific date;
- 3). Attend and complete an approved anger management course, to begin by a specific date;
- 4). Obtain a psychological evaluation with Benjamin Albritton on or before a certain date; and
- 5). Attend psychological counseling twice per month for at least six months, beginning on or before March 15, 2021. (CR 1247-1286 in no. 05-21-00242-CV)

At the vexatious litigant hearing, Judge Nowak, who had presided over the numerous prior matters filed by Ms. Wilkerson, made the following comments regarding the reasons for his finding that she is a vexatious litigant:

THE COURT: The evidence that you present is not relevant. The evidence that you have presented is not anything that will sway me one way or the other in regards to that stuff. Because you keep presenting the same evidence over and over and over again because you

⁸ The hearings on Aug. 18, 2021; Sept. 11 and 17, 2021; Nov. 17 and 20, 2021; Jan. 2, 2021; and March 3, 2021 still need to be transcribed by the court reporter and filed.

don't like the rulings.

You have a problem with the idea that somebody is going to tell you no. And you keep thinking that if you keep filing things over and over and over again that somehow my opinion will change. It will not, based on the evidence – (6 RR 43)

* * *

THE COURT: And I do find that what the respondents [say] are correct because you have [been] given instructions on how to possibly see your children and you have done none of that at this point in time. And you want to sit there and complain and say you can't. (6 RR 45)

* * *

THE COURT: Again, we're not here to talk about them, we're here to talk about you. You have filed specific lawsuits, namely, these protective orders that have been denied by this Court multiple times. So you continue to file them. You continue to file frivolous motions with regard to this Court and regard to every single case that we've been dealing with, specifically, your protective orders and the original filings.

So, again, there have been many instances where you have filed motions that have been denied by this Court, more -- much more than five. (6 RR 50)

* * *

THE COURT: And so your thing that you can't seem to, again, get through your head, is that you have to get on a path to where you can do the things that are in that order to do. And instead of spending your time trying to file frivolous motions with this Court over and over and over again and get a protective order where you claim to be the victim in this situation and you want things that you specifically want as opposed to doing the things that this Court has ordered you to do

multiple times in the past, you then want to come in here and argue about it as oppose to doing it and that's where the issue comes in. (6 RR 53-54)⁹

C. The Ruling

On April 21, 2021, the trial court signed the order appealed from and made the following findings:

The court finds that there is not a reasonable probability that MOLLY L. WILKERSON will prevail in litigation against MARK MALDONADO.

MOLLY L. WILKERSON in the seven-year period immediately preceding the filing of the Motion has commenced, prosecuted, or maintained at least five litigations as a *pro se* litigant other than in a small claims court that have been finally determined adversely to her. (CR 48)

After a litigation has been finally determined against MOLLY L. WILKERSON, she repeatedly relitigates or attempts to relitigate, *pro se*, the validity of the determination against the same defendant, MARK MALDONADO, as to whom the litigation was finally determined.

(CR 48-49) (Appendix A)

SUMMARY OF THE ARGUMENTS

Mr. Maldonado satisfied every prerequisite in the Vexatious Litigant Act, and the trial court had ample evidence upon which to base its determination. Ms. Wilkerson had numerous hearings at which she made arguments (and sometimes

⁹ He also told Ms. Wilkerson, "I don't think your kids should be with you because of the decisions you continually make." (6 RR 45)

presented evidence) regarding her five applications for the same protective order that were the primary bases for the vexatious litigant finding. She was amply afforded due process.

The Vexatious Litigant Act balances a person's right of access to the courts and the public's interest in protecting defendants from those who abuse the court system by systematically filing lawsuits with little or no merit. This Court and others have found it to be constitutional. Ms. Wilkerson has had many days in court, but she just does not like the results, and she refuses to follow the trial court's orders of what actions she needs to take to be able to safely see her children. It was time for Mr. Maldonado's interests to be protected, and the trial court did not err by doing so.

ARGUMENTS AND AUTHORITIES

ISSUE

The trial court did not err in declaring Appellant a vexatious litigant.

A. Standard of Review

A trial court's declaration that a party is a vexatious litigant is reviewed for abuse of discretion. *Aubrey v. Aubrey*, 523 S.W.3d 299, 309 (Tex. App. – Dallas 2017, no pet.); *Beasley v. Society of Information Management, Dallas Area Chapter*, 2020 WL 5087824 *1 (Tex. App. – Dallas 2020, pet. denied; cert. denied, 142 S.Ct. 1207 (2022)), citing *Drum v. Calhoun*, 299 S.W.3d 360, 364 (Tex. App.

– Dallas 2009, pet. denied). The court is not free to substitute its own judgment for the trial court’s judgment. *Id.* A trial court abuses its discretion if it acts in an arbitrary or capricious manner without reference to guiding rules or principles. *Id.*

B. Applicable Law

Mr. Maldonado’s motion was brought pursuant to Section 11.051 of the Texas Civil Practice and Remedies Code, which reads as follows:

In a litigation in this state, the defendant may, on or before the 90th day after the date the defendant files the original answer or makes a special appearance, move the court for an order:

- (1) determining that the plaintiff is a vexatious litigant; and
- (2) requiring the plaintiff to furnish security.

TEX. CIV. PRAC. & REM. CODE § 11.051

Texas Civil Practice and Remedies Code Sections 11.001, *et. seq.*, permit a court to declare a petitioner a vexatious litigant if the respondent shows there is not a reasonably probability the petitioner will prevail in the litigation against the respondent and the movant shows the following:

(1) the plaintiff, in the seven-year period immediately preceding the date the defendant makes the motion under Section 11.051, has commenced, prosecuted, or maintained at least five *litigations* as a pro se litigant other than in a small claims court that have been:

- (A) finally determined adversely to the plaintiff;
- (B) permitted to remain pending at least two years without having been brought to trial or hearing; or

- (C) determined by a trial or appellate court to be frivolous or groundless under state or federal laws or rules of procedure;
- (2) after a litigation has been finally determined against the plaintiff, the plaintiff repeatedly relitigates or attempts to relitigate, *pro se*, either:
 - (A) the validity of the determination against the same defendant as to whom the litigation was finally determined; or
 - (B) the cause of action, claim, controversy, or any of the issues of fact or law determined or concluded by the final determination against the same defendant as to whom the litigation was finally determined; or
- (3) the plaintiff has previously been declared to be a vexatious litigant by a state or federal court in an action or proceeding based on the same or substantially similar facts, transition, or occurrence.

TEX. CIV. PRAC. & REM. CODE §11.054 (emphasis added)

A petitioner who is declared a vexatious litigant may be required to furnish security for the respondent's reasonable expenses including costs and attorney's fees. TEX. CIV. PRAC. & REM. CODE §11.055. If he or she fails to provide the security, her suit must be dismissed. *Id.* at §11.056. If a court finds, after notice and a hearing, that a party is a vexatious litigant, the court can issue a prefiling order prohibiting the vexatious litigant from filing, *pro se*, any new lawsuits in a

court to which the order applies without permission of the local administrative judge. *Id.* at §11.101.¹⁰

This Court examined the Vexatious Litigant Act (“VLA”) in *Drake v. Andrews*, 294 S.W.2d 370, 373 (Tex. App. – Dallas 2009, pet. denied). The Court noted the following:

The legislative history does, however, offer the following background statement: Some litigants abuse the Texas court system by systematically filing lawsuits with little or no merit. This practice clogs the courts with repetitious or groundless cases, delays the hearing of legitimate disputes, wastes taxpayer dollars, and requires defendants to spend money on legal fees to defend against groundless lawsuits. House Committee on Civil Practices, Bill Analysis, Tex. H.B. 3087, 75th Leg., R.S. (1997). The history continues, laying out the purpose of the proposed statute: H.B. 3087 will curb vexatious litigation by requiring plaintiffs found by a court to be “vexatious” to post security for costs before proceeding with a lawsuit. *Id.* Courts, including this one, have described the Legislature’s intent in enacting Chapter 11 as a balancing of individual Texans’ rights to access their court system against the public’s interest in protecting defendants from individuals who abuse that system. [*citations omitted*] In sum, the statute is intended to protect a defendant from the cost of defending against a potentially abusive action. Chapter 11 became effective on September 1, 1997, and it has not been amended. *Drake*, 294 S.W.2d at 373.

See also *Drum v. Calhoun*, 299 S.W.3d 360, 364-65 (Tex. App. – Dallas 2009, pet. denied).

¹⁰ The trial court declined to order Ms. Wilkerson to post security, however it ordered that she must obtain permission of the local administrative judgment before she would be permitted to file further litigation. (CR 49) That permission was granted to file this appeal. (CR 63)

Recently, this Court addressed several issues regarding the VLA, including constitutionality, in *Beasley v. Society of Information Management, Dallas Area Chapter*, 2020 WL 5087824 (Tex. App. – Dallas 2020, pet. denied, cert. denied, 142 S.Ct. 1207 (2022)). The Court noted that a plaintiff is not categorically barred from future litigation, but merely required to put up a bond (although not in this case) or obtain permission before filing. *Beasley*, 2020 WL 5087824 at *12, citing *Leonard v. Abbott*, 171 S.W.3d 451, 457-58 (Tex. App. – Austin 2005, pet. denied). It found the VLA’s provisions were not an unreasonable balance of the opposing parties’ interests, and, therefore, not unconstitutional. *Id.* This Court cited *Dolenz v. Boundy*, No. 05-08-01052-CV, 2009 WL 4283106 at *3-4 (Tex. App. – Dallas 2009, no pet.) (mem. op.) and *Retzlaff v. GoAmerica Communications Corp.*, 356 S.W.3d 689, 702 (Tex. App. – El Paso 2011, no pet.) as further support for its finding that the VLA is constitutional.

C. Arguments and Authorities

1. Technical Requirements of the Vexatious Litigant Act

Ms. Wilkerson’s argument that her repeated applications for protective orders are not subject to the VLA because they are not “lawsuits,” ignores the language of the statute. (Appellant’s Brief at 17) The legislature did not use the word “lawsuit,” instead choosing to use the word “litigation,” most likely to

avoid the type of argument Ms. Wilkerson is making. Section 11.001(2) of the VLA defines “litigation” as “a civil action commenced, maintained, or pending in any state or federal court.” TEX. CIV. PRAC. & REM. CODE §11.001(2). That is exactly what the numerous filings Ms. Wilkerson made in the numerous related cause numbers were.

Ms. Wilkerson also argues that if protective order applications are considered independent “lawsuits” for purposes of the statute, then so should any written requests and TROs. (Appellant’s Brief at 18) She then argues that Mr. Maldonado was not entitled to request a vexatious litigant designation because he had “unclean hands” (apparently because he had made other filings himself). (Appellant’s Brief at 18) She has no legal citation for such an interpretation of the statute.

Ms. Wilkerson argues that the trial court’s finding that she had commenced at least five litigations as a *pro se* litigant that had been finally determined adversely to her was in error. (Appellant’s Brief at 19-20) However, she uses the date of Mr. Maldonado’s filing of the motion to declare her a vexatious litigant, April 14, 2021, rather than the date upon which the Order was signed, April 21, 2021. (Appellant’s Brief at 19-20) She also notes that her applications for protective orders were not “finally determined” until April 20, 2021. (Appellant’s Brief at 19) They had been ruled on previously, but the trial court reiterated at the

hearing that, “Again, the protective orders are made final.” (6 RR 56). The Order declaring her a vexatious litigant was not signed until the following day, April 21, 2021, so the statutory requirement of finality was satisfied. (CR 49)

2. Constitutionality of the Vexatious Litigant Act

Ms. Wilkerson’s argument that the VLA is unconstitutional is supported by no law, other than a mention that Florida law has found the vexatious litigant statute should not apply in family law cases or cases involving parental rights. (Appellant’s Brief at 20) She repeatedly expresses her frustration at not having access to her children, then argues that the vexatious litigant statute prevents her from exercising her “constitutional rights” to seek contact with her children. (Appellant’s Brief at 21) Her frustration is understandable, but the trial court repeatedly heard evidence of her conduct that would make contact with her children contrary to their best interests until she had performed certain acts to reform that conduct. (CR 1247-86 in no. 05-21-00242-CV) The trial court made its ruling accordingly.

This case is not an appropriate vehicle for the Court to take on the issue of constitutionality of the statute, because Ms. Wilkerson already has had multiple opportunities to assert her due process rights. As noted above, this Court and several others have found the VLA constitutional. See, e.g., *Beasley*, 2020 WL

5087824 at *12; *Drake*, 294 S.W.2d at 373, *Drum*, 299 S.W.3d at 364-65; *Dolenz*, 2009 WL 4283106 at *3-4; and *Retzlaff*, 356 S.W.3d at 702.

3. Bases of Trial Court's Determination

Appellee filed the motion on or before the 90th day after Ms. Wilkerson's April 5, 2021 application for a protective order against him. (CR 6, 25). He showed that in the seven-year period before Ms. Wilkerson filed the April 4, 2021 application for protective order, she had filed four similar applications and two other proceedings, *pro se*, that were denied.¹¹(CR 25-26) This satisfied the terms of the statute. TEX. CIV. PRAC. & REM. CODE §§11.051,11.054. The protections awarded by the trial court to Mr. Maldonado were based upon the evidence of Ms. Wilkerson's use of drugs, violence, and other reasons she was a danger to Mr. Maldonado.¹² The trial court had heard this evidence and ruled accordingly. (Final Protective Order - Appendix B) Ms. Wilkerson's repeated filings did not cite new evidence, which Judge Novak explained at the hearing before he ruled that there was no merit to her continued filings. (6RR 45, 50-54) That is why the trial court did not abuse its discretion in finding she was a vexatious litigant.

¹¹ The motion to modify the protective order and the final order in the SAPCR entered on Mar. 3, 2021.

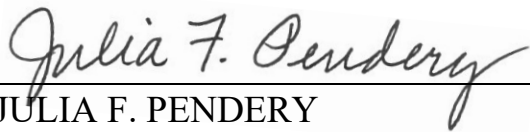
¹² The validity of the protective order against her is the subject of appeal no. 05–21–00373-CV.

Ms. Wilkerson is the exact type of person for which the vexatious litigant statute was created. The courts need something to deter parties like her from continually filing court proceedings over the same issues that have been finally determined against them. In this case, the consequences are not severe – Ms. Wilkerson must seek permission to make further filings. She does not have to post a bond for Mr. Maldonado’s attorney fees in future litigation (and he has already incurred substantial fees and expenses). Therefore, the trial court did not abuse its discretion in finding her to be a vexatious litigant.

PRAYER FOR RELIEF

Appellee, Mark Maldonado, prays that this Court affirm the trial court’s Order. Appellee prays for such other relief to which he is justly entitled.

Respectfully submitted,

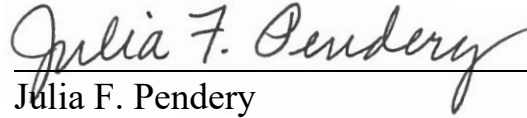


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CERTIFICATE OF COMPLIANCE

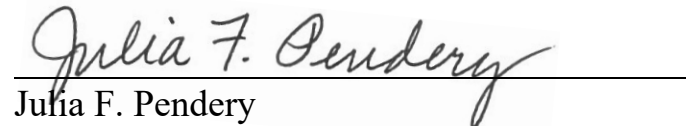
I certify that this document contains 3678 words as determined by Microsoft Word, the software used to generate it.


Julia F. Pendery

CERTIFICATE OF SERVICE

I certify that I designated that a copy of Appellee's Brief be served on Appellant through the Court's electronic filing system on April 20, 2022.

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Julia F. Pendery

APPENDIX

- A. Order Declaring Molly L. Wilkerson a Vexatious Litigant, April 21, 2021 (CR 48)**
- B. Final Protective Order, March 3, 2021 (CR 30-37 in Appeal No. 05-21-00373-CV)**

CASE NO. 366-51795-2021

MOLLY WILKERSON	§	IN THE DISTRICT COURT
	§	
v.	§	366th JUDICIAL DISTRICT
	§	
MARK MALDONADO	§	COLLIN COUNTY, TEXAS

ORDER DECLARING MOLLY L. WILKERSON A VEXATIOUS LITIGANT***Date of Hearing***

On April 20, 2021, the Court heard *Respondent's Motion to Designate Petitioner Molly L. Wilkerson a Vexatious Litigant* (the "Motion") filed on April 14, 2021 by Respondent MARK MALDONADO.

Appearances

Respondent, MARK MALDONADO, appeared in person and through his attorneys of record, Claire E. James and Gracen M. Daniel, and announced ready.

Petitioner, MOLLY L. WILKERSON, appeared in person, *pro se*, and announced ready.

Record

The record of testimony was duly reported by the Court Reporter for the 366th Judicial District Court of Collin County, Texas.

Findings

The Court, after notice to all parties, conducted a hearing to determine whether to grant the Motion. The Court considered evidence material to the grounds of the Motion, including the Motion and exhibits thereto, the pleadings on file in this case, the pleadings on file in other Collin County cases filed by MOLLY L. WILKERSON against MARK MALDONADO considered by judicial notice, the arguments of the parties, and the evidence presented at the evidentiary hearing.

The court finds that the material allegations in the Motion are true. **IT IS, THEREFORE, ORDERED** that the Motion is **GRANTED**.

The court finds that there is not a reasonable probability that MOLLY L. WILKERSON will prevail in litigation against MARK MALDONADO.

MOLLY L. WILKERSON in the seven-year period immediately preceding the filing of the Motion, has commenced, prosecuted, or maintained at least five litigations as a *pro se* litigant other than in a small claims court that have been finally determined adversely to her.

After a litigation has been finally determined against MOLLY L. WILKERSON, she repeatedly relitigates or attempts to relitigate, *pro se*, the validity of the determination against the same defendant, MARK MALDONADO, as to whom the litigation was finally determined.

After a litigation has been finally determined against MOLLY L. WILKERSON, she repeatedly relitigates or attempts to relitigate, *pro se*, the cause of action, claim, controversy, and the issues of fact or law determined or concluded by the final determination against the same defendant, MARK MALDONADO, as to whom the litigation was finally determined.

The court, after hearing the evidence of the Motion, declares MOLLY L. WILKERSON a vexatious litigant.

Security

MOLLY L. WILKERSON is ORDERED to furnish security for the benefit of MARK MALDONADO in the amount of \$_____ to be deposited in the registry of the court on or before _____.

The court finds that MOLLY L. WILKERSON has the ability to pay this security.

This security is an undertaking by MOLLY L. WILKERSON to assure payment to MARK MALDONADO of his reasonable expenses incurred in or in connection with a litigation commenced, caused to be commenced, maintained, or caused to be maintained by MARK MALDONADO, including costs and attorney's fees.

A court shall dismiss a litigation as to MARK MALDONADO if MOLLY L. WILKERSON does not furnish the security within the time set by this order.

If a litigation is dismissed on its merits, MARK MALDONADO has recourse to the security furnished by MOLLY L. WILKERSON as plaintiff in the amount of \$_____.

Prefiling Order

It IS ORDERED that MOLLY L. WILKERSON is prohibited from filing, *pro se*, a new litigation in any court in Texas without written permission of the appropriate local administrative judge described by TEX. CIV. PRAC. & REM. CODE §11.102(a).

If MOLLY L. WILKERSON files a request seeking permission to file a litigation, she shall provide a copy of the request to all defendants named in the proposed litigation.

The appropriate local administrative judge may make a determination on MOLLY L. WILKERSON'S request with or without a hearing, at the discretion of the local administrative judge. If the judge determines that a hearing is necessary, the judge may require MOLLY L. WILKERSON to provide notice of the hearing to all defendants named in the proposed litigation.

The appropriate local administrative judge may grant permission to MOLLY L. WILKERSON to file a litigation only if it appears to the judge that the litigation (1) has merit and (2) has not been filed for the purposes of harassment or delay.

The appropriate local administrative judge may condition permission on the furnishing of security for the benefit of the defendant.

Duties of Clerk

IT IS ORDERED that MOLLY L. WILKERSON is prohibited from requesting the district clerk to issue citation, issue notice, serve process, or incur any court costs without written permission by the appropriate local administrative judge.

Specifically, IT IS ORDERED that MOLLY L. WILKERSON must obtain written permission from the appropriate local administrative judge each time she seeks to request service by a constable or sheriff.

Except as provided by TEX. CIV. PRAC. & REM. CODE § 11.103(d), a clerk of a court may not file a litigation, original proceeding, appeal, or other claim presented, *pro se*, by MOLLY L. WILKERSON unless she obtains an order from the appropriate local administrative judge permitting the filing.

If the appropriate local administrative judge issues an order permitting the filing of the litigation, the litigation remains stayed and the defendant need not plead until the 10th day after the date the defendant is served with a copy of the order.

If the clerk mistakenly files litigation presented, *pro se*, by MOLLY L. WILKERSON without an order from the appropriate local administrative judge, any party may file with the clerk and serve on MOLLY L. WILKERSON and the other parties to the litigation a notice stating that MOLLY L. WILKERSON is a vexatious litigant required to obtain permission to file litigation.

Not later than the next business day after the date the clerk receives notice that MOLLY L. WILKERSON has filed, *pro se*, litigation without obtaining an order from the appropriate local administrative judge, the clerk shall notify the court that the litigation was mistakenly filed. On receiving notice from the clerk, the court shall immediately stay the litigation and shall dismiss the litigation unless MOLLY L. WILKERSON, not later than the 10th day after the date the notice is filed, obtains an order from the appropriate local administrative judge permitting the filing of the litigation.

Reporting to the Office of Court Administration

The clerk of this court shall provide the Office of Court Administration of the Texas Judicial System a copy of this prefiling order not later than the 30th day after the date this prefiling order is signed.

Contempt

MOLLY L. WILKERSON'S failure to obey this order may be punished by contempt of court and any other lawful means of enforcement.

IT IS SO ORDERED.

SIGNED ON 4/21/2021, 2021.



JUDGE PRESIDING

**NOTICE: THIS DOCUMENT
CONTAINS SENSITIVE DATA**

Appendix B

CAUSE NO. 366-50778-2021

MARK MALDONADO	§	IN THE DISTRICT COURT
	§	
AND	§	366th JUDICIAL DISTRICT
	§	
MOLLY L. WILKERSON	§	DALLAS COUNTY, TEXAS

FINAL PROTECTIVE ORDER

On March 3, 2021, the Court heard the Application of Mark Maldonado for a Protective Order.

Appearances

Applicant, Mark Maldonado (“Applicant”) appeared via Zoom and through attorney of record, George A. (Tony) Mallers, and announced ready.

Respondent, Molly L. Wilkerson (“Respondent”) appeared via Zoom pro se and announced ready.

Jurisdiction

The Court, after examining the record and hearing the evidence and argument of counsel, finds that all necessary prerequisites of the law have been satisfied and that this Court has jurisdiction over the parties and subject matter of this case.

Findings

The Court finds that Applicant and Respondent are separated. The Court finds M [REDACTED] C [REDACTED] Maldonado and M [REDACTED] A [REDACTED] Maldonado are the children of Applicant and Respondent.

The Court finds that family violence has occurred, and that family violence is likely to occur in the future. The Court finds that Respondent, Molly Wilkerson, has committed family

violence. The Court finds that the orders contained in this Final Protective Order are for the safety and welfare and in the best interest of Applicant and other members of the family and are necessary for the prevention of family violence.

Protected Person

In this order, "Protected Person" means Applicant, ~~minor child M [REDACTED] C [REDACTED]~~
~~Maldonado, and/or minor child M [REDACTED] A [REDACTED] Maldonado.~~ TN

Orders

IT IS ORDERED that Respondent Molly L. Wilkerson is prohibited from:

1. Committing family violence, as described in section 71.004 of the Texas Family Code, against any Protected Person;
2. Doing any act that is intended to result in physical harm, bodily injury, assault, or sexual assault against any Protected Person;
3. Communicating or attempting to communicate in any manner with any Protected Person, unless such communication is through Applicant's attorney of record or an individual appointed by the Court;
4. Being within 250 yards of any Protected Person unless during a supervised possession period of the minor children;
5. Being within 250 yards of the following properties: Applicant's residence, located at [REDACTED]; Applicant's workplace, located at [REDACTED]
[REDACTED]; Applicant's property located at [REDACTED]
[REDACTED]; and Applicant's property located at [REDACTED];
6. Being within 250 yards of [REDACTED],
[REDACTED];

7. Stalking, following, or engaging in conduct directed specifically to any Protected Person that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass her or him;
8. Possessing a firearm or ammunition unless Respondent is a peace officer, as defined by section 1.07 of the Texas Penal Code, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision;
9. Possessing a license to carry a concealed handgun issued under subchapter H, chapter 411, of the Texas Government Code;
10. Consuming alcohol at any time to prevent or reduce the likelihood of family violence;
11. Removing M█████ C█████ Maldonado and M█████ A█████ Maldonado from the possession of Applicant; and
12. Having unsupervised possession of M█████ C█████ Maldonado or M█████ A█████ Maldonado (collectively, the “Children”).

Battering Intervention and Prevention Program

IT IS ORDERED that Respondent commence and complete a Battering Intervention and Prevention Program (“BIPP”) accredited under article 42.141 of the Texas Code of Criminal Procedure within six (6) months from the date of this Order by contacting Hope’s Door New Beginnings Center (972-422-2911, extension -605 or any other accredited BIPP program in Collin County, Texas.

IT IS FURTHER ORDERED that Respondent file with the Court, before the sixtieth day after the date this order is rendered, an affidavit stating either that Respondent has started the program or that the program is not available within a reasonable distance of Respondent’s residence.

IT IS FURTHER ORDERED that, if Respondent files an affidavit that Respondent has started the program, Respondent shall file with the Court before the date this protective order expires (1) a statement that Respondent completed the program not later than the earlier of the thirtieth day before this protective order expires or the thirtieth day before the first anniversary of the date of this protective order is issued and (2) a letter, notice, or certificate from the program that verifies Respondent's completion of the program. If Respondent fails to provide the affidavit and, if required, the statement and verification of completion of the program as ordered, Respondent may be punished for contempt of court, as provided by section 21.002 of the Texas Government Code, by a fine not to exceed \$500, by confinement in jail for a term not to exceed six months, or by both.

Attorney's Fees

The Court finds that Molly L. Wilkerson should be assessed
\$8915 _____ as reasonable attorney's fees for the services of George A.
(Tony) Mallers and Cowles & Thompson P.C.

IT IS ORDERED that George A. (Tony) Mallers of Cowles & Thompson P.C. is awarded a judgment against Molly L. Wilkerson in the amount of \$8915 _____ for services provided through this judgment, plus postjudgment interest at the rate of five percent (5%), compounded annually, from the date this judgment is entered until all amounts are paid in full. George A. (Tony) Mallers of Cowles & Thompson P.C. may enforce this judgment in his own name.

Costs

IT IS ORDERED that Respondent, Molly L. Wilkerson, shall pay the standard protective order fee, the standard fee for cost of service of this order, the costs of court, and all other fees, charges, or expenses incurred in connection with this order.

IT IS THEREFORE ORDERED that Respondent shall pay the \$16.00 protective order fee to the clerk of this Court on or before the sixtieth (60th) day after this Final Protective Order is rendered at Russell A. Steindam Courts Building, 2100 Bloomdale Road, Suite 30146, McKinney, Texas 75071, by cash, cashier's check, or money order.

Forwarding Copies

IT IS ORDERED that the Clerk of the Court must forward copies of this Order and the attached information provided by Applicant's attorney pursuant to section 411.042(b)(6) of the Texas Government Code to the chief of police of the municipality of Plano, Texas. The Clerk must forward a copy of this Order to the chief of police, or sheriff and constable of Collin County, Texas, no later than the next business day after the date the Court issues this order.

IT IS ORDERED that a copy of this order shall be forwarded by the clerk of this Court to the following school in Plano Independent School District: [REDACTED]

[REDACTED].

Duration of Order

IT IS ORDERED that this Final Protective Order is effective immediately and will continue in full force and effect until exactly two (2) years from the date this Final Protective Order is signed.

Relief Not Granted

IT IS ORDERED that all relief requested in the Application for Protective Order but not expressly granted is denied.

Enforcement of Child Custody Provisions

NOTICE TO ANY PEACE OFFICER OF THE STATE OF TEXAS: YOU MAY USE REASONABLE EFFORTS TO ENFORCE THE TERMS OF CHILD CUSTODY SPECIFIED IN THIS ORDER. A PEACE OFFICER

WHO RELIES ON THE TERMS OF A COURT ORDER AND THE OFFICER'S AGENCY ARE ENTITLED TO THE APPLICABLE IMMUNITY AGAINST ANY CLAIM, CIVIL OR OTHERWISE, REGARDING THE OFFICER'S GOOD FAITH ACTS PERFORMED IN THE SCOPE OF THE OFFICER'S DUTIES IN ENFORCING THE TERMS OF THE ORDER THAT RELATE TO CHILD CUSTODY. ANY PERSON WHO KNOWINGLY PRESENTS FOR ENFORCEMENT AN ORDER THAT IS INVALID OR NO LONGER IN EFFECT COMMITS AN OFFENSE THAT MAY BE PUNISHABLE BY CONFINEMENT IN JAIL FOR AS LONG AS TWO YEARS AND A FINE OF AS MUCH AS \$10,000.

WARNINGS:

A PERSON WHO VIOLATES THIS ORDER MAY BE PUNISHED FOR CONTEMPT OF COURT BY A FINE OF AS MUCH AS \$500 OR BY CONFINEMENT IN JAIL FOR AS LONG AS SIX MONTHS, OR BOTH.

NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT UNLESS A COURT CHANGES THE ORDER.

IT IS UNLAWFUL FOR ANY PERSON, OTHER THAN A PEACE OFFICER, AS DEFINED BY SECTION 1.07, TEXAS PENAL CODE, ACTIVELY ENGAGED IN EMPLOYMENT AS A SWORN, FULL-TIME PAID EMPLOYEE OF A STATE AGENCY OR POLITICAL SUBDIVISION, WHO IS SUBJECT TO A PROTECTIVE ORDER TO POSSESS A FIREARM OR AMMUNITION.

A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED BY THE ORDER MAY BE PUNISHABLE BY A FINE OF AS MUCH AS \$4,000 OR BY CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR, OR BOTH. AN ACT THAT RESULTS IN FAMILY VIOLENCE MAY BE PROSECUTED AS A SEPARATE MISDEMEANOR OR FELONY OFFENSE. IF THE ACT IS PROSECUTED AS A SEPARATE FELONY OFFENSE, IT IS PUNISHABLE BY CONFINEMENT IN PRISON FOR AT LEAST TWO YEARS.

IT IS UNLAWFUL FOR ANY PERSON WHO IS SUBJECT TO A PROTECTIVE ORDER TO POSSESS A FIREARM OR AMMUNITION. POSSESSION OF A FIREARM OR AMMUNITION, AS DEFINED IN 18 U.S.C. § 921, WHILE THIS PROTECTIVE ORDER IS IN EFFECT MAY BE A FELONY UNDER FEDERAL LAW PUNISHABLE BY UP TO TEN YEARS IN PRISON, A \$250,000 FINE, OR BOTH.

PURSUANT TO 18 U.S.C. § 925(A)(1), THE RESTRICTIONS ON POSSESSION OF FIREARMS OR AMMUNITION FOUND AT 18 U.S.C. § 922(G)(8), AND IMPOSED BY THIS PROTECTIVE ORDER, DO NOT APPLY TO FIREARMS OR AMMUNITION ISSUED BY THE UNITED STATES OR ANY DEPARTMENT OR AGENCY THEREOF OR ANY STATE OR ANY DEPARTMENT, AGENCY, OR POLITICAL SUBDIVISION THEREOF, WHICH RESPONDENT POSSESSES IN CONNECTION WITH THE DISCHARGE OF OFFICIAL

GOVERNMENT DUTIES. THE POSSESSION OF PRIVATELY-OWNED FIREARMS AND AMMUNITION, HOWEVER, REMAINS UNLAWFUL AND VIOLATES THE TERMS OF THIS PROTECTIVE ORDER.

IT IS UNLAWFUL FOR ANY PERSON WHO IS SUBJECT TO A PROTECTIVE ORDER TO KNOWINGLY PURCHASE, RENT, LEASE, OR RECEIVE AS A LOAN OR GIFT FROM ANOTHER, A HANDGUN FOR THE DURATION OF THIS ORDER.

INTERSTATE VIOLATION OF THIS PROTECTIVE ORDER MAY SUBJECT RESPONDENT TO FEDERAL CRIMINAL PENALTIES. THIS PROTECTIVE ORDER IS ENFORCEABLE IN ALL FIFTY STATES, THE DISTRICT OF COLUMBIA, TRIBAL LANDS, AND U.S. TERRITORIES.

Date of Order

This Final Protective Order **JUDICIALLY PRONOUNCED AND RENDERED** in Court in Collin County, Texas, on March 3, 2021 and further noted on the Court's docket sheet on the same date.

SIGNED on March 3,, 2021 at _____. M.



JUDGE PRESIDING

[Party description information on following page]

Information Required by Texas Government Code Section 411.052(b)(6)

Information concerning Respondent, the person to whom the Final Protective Order is directed:

Name: Molly Louise Wilkerson

Home address: [REDACTED]

Mobile telephone number: [REDACTED]

Work address: Unemployed

Date of birth: [REDACTED]

Color of eyes: Hazel

Color of hair: Blonde

Height: 5'7"

Weight: 160

Sex: Female

Race: White

Personal descriptors: nose piercing, one tattoo on each foot

Social Security number: xxx-xx-x399

Driver's license or identification number and issuing state: Texas; DL# [REDACTED] 257

Information about Applicant and his children:

Names: Applicant Mark Maldonado, Children: M [REDACTED] C [REDACTED] Maldonado and M [REDACTED] A [REDACTED] Maldonado

Address of Applicant's residence: [REDACTED]

Applicant's workplace: Collin College, [REDACTED]

Locations of children's school: [REDACTED]
[REDACTED]

Applicant's other properties: [REDACTED]

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Lupe Gutierrez on behalf of Julia Pendery
Bar No. 15744050
lgutierrez@cowlesthompson.com
Envelope ID: 63753393
Status as of 4/21/2022 8:38 AM CST

Associated Case Party: Mark Maldonado

Name	BarNumber	Email	TimestampSubmitted	Status
Trechelle Andersen		tandersen@cowlesthompson.com	4/20/2022 4:57:58 PM	SENT
Gracen Daniel	24116248	gracen.daniel@griffithbarbee.com	4/20/2022 4:57:58 PM	SENT
George Mallers		tmallers@cowlesthompson.com	4/20/2022 4:57:58 PM	SENT
Claire James		cjames@cowlesthompson.com	4/20/2022 4:57:58 PM	SENT
Julia Pendery		jpendery@cowlesthompson.com	4/20/2022 4:57:58 PM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Gutierrez Lupe		lgutierrez@cowlesthompson.com	4/20/2022 4:57:58 PM	SENT

Associated Case Party: Molly Wilkerson

Name	BarNumber	Email	TimestampSubmitted	Status
Molly LouiseWilkerson		missmolly2020@aol.com	4/20/2022 4:57:58 PM	SENT